

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>The FCC’s Advisory Committee for the 2007 World Radiocommunications Conference</b>	)	<b>IB Docket No. 04-286</b>
<b>Considers Recommendations on</b>	)	<b>DA 05-1774</b>
<b>WRC-07 Issues</b>	)	

**To: The Chief, International Bureau**

**COMMENTS OF MARITEL, INC.**

MariTEL, Inc. (“MariTEL”), by its attorneys and pursuant to the invitation extended by the Federal Communications Commission (“FCC” or “Commission”) in the *Public Notice* in the above referenced proceeding,<sup>1/</sup> hereby submits its comments responsive to the proposal of the National Telecommunications and Information Administration (“NTIA”) regarding Agenda Item 1.14 of the 2007 World Radiocommunications Conference (“WRC-2007”).<sup>2/</sup> NTIA’s proposal does not represent United States spectrum policy today because it pre-judges a pending FCC proceeding and should not be incorporated as a recommended United States position at WRC-07.<sup>3/</sup>

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<sup>1/</sup> “The FCC’s Advisory Committee for the 2007 World Radiocommunication Conference Considers Recommendations on WRC-07 Issues,” *Public Notice*, DA 05-1774 (June 27, 2005). Pursuant to the FCC’s direction, these comments have been submitted electronically in IB Docket No. 04-286 using the Electronic Comment Filing System, and a copy of these comments have been sent electronically to Alexander Roytblatt of the FCC.

<sup>2/</sup> The NTIA proposal bears the document number WAC/058 (22.06.05) and purports to represent the views of the Executive Branch. *See* letter from Fredrick R. Wentland, Associate Administrator, Office of Spectrum Management, NTIA, to Mr. Donald Abelson, Chief of the International Bureau, FCC, dated April 15, 2005.

<sup>3/</sup> Although not the subject of the Public Notice, MariTEL previously urged, in a letter dated July 2, 2004, that Agenda Item 1.14 address footnotes *m* and *o* of Appendix 18. Those footnotes generally permit more advanced use of certain internationally designated maritime spectrum. However, that flexibility does not extend to all maritime spectrum, and does not extend to MariTEL’s spectrum in particular. MariTEL urges that the United States position seek

## **I. Background**

MariTEL was the largest provider of VHF Public Coast (“VPC”) services in the United States and, through various predecessors in interest, provided ship-to-shore services for over forty years. In 1999 and again in 2001, MariTEL actively participated in the FCC’s auctions of VPC station licenses.<sup>4/</sup> As a result, MariTEL became the exclusive entity (except for site-specific incumbent licensees) authorized to operate maritime VPC spectrum.

MariTEL is an active participant in virtually all proceedings concerning the use of VHF spectrum designated for maritime operations. Moreover, this proceeding affects spectrum that is licensed to MariTEL as a result of MariTEL’s participation in the FCC’s auction process. Accordingly, MariTEL has a direct interest in this proceeding, and is pleased to have the opportunity to submit comments in this proceeding.

## **II. Discussion**

The NTIA proposal represents a continuation of NTIA’s efforts to strip MariTEL of the effective use of its VPC licenses in general, and the use of channel 87B (161.975 MHz) in particular. As the FCC is aware, it has initiated a rule making proceeding that proposes to reallocate channel 87B from the public coast service and dedicate it for use by Automatic Identification Systems (“AIS”), effectively depriving both incumbent and auction VPC licensees

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extension of footnotes *m* and *o* to all spectrum covered by Section 80.373(c) of the FCC’s rules. Such a position is consistent with United States spectrum policy, which generally provides licensees with the maximum flexibility in the use of their authorized spectrum.

<sup>4/</sup> “FCC Announces the Conditional Grant of 26 VHF Public Coast Station Licenses,” *Public Notice*, DA 99-195 (rel. May 21, 1999) (announcing that MariTEL was the winning bidder of nine VHF public coast licenses); “VHF Public Coast and Location and Monitoring Service Spectrum Auction Closes: Winning Bidders Announced,” *Public Notice*, DA 01-1443 (rel. June 15, 2001) (announcing that MariTEL was the winning bidder of seven inland VPC licenses).

of the use of channel 87B.<sup>5/</sup> MariTEL has vigorously opposed the FCC's proposal and will continue to do so.

One of the significant issues raised in the AIS Proceeding is the scope of AIS service. In particular, the FCC asked whether, if it allocates channel 87B for AIS, it should do so on a nationwide basis, as the NTIA suggested or, alternatively, whether channel 87B should be designated for use in maritime areas only.<sup>6/</sup> In an attempt to justify its position, NTIA asserted that it wishes to use AIS transmissions not only in connection with marine intelligence gathering, but also as a surveillance mechanism generally. In support of this more expansive use of AIS transmissions, NTIA wishes to be able to monitor AIS traffic from not only land based stations situated near maritime areas, but also from satellites. It states that use of channel 87B for other than AIS transmissions will dilute its ability to use AIS for general surveillance purposes.

MariTEL strongly opposed NTIA's request that channel 87B be reallocated for AIS purposes on a nationwide basis in the AIS Proceeding.<sup>7/</sup> Among other things, MariTEL pointed out that when MariTEL participated in the auction for VPC spectrum, and when the FCC promulgated regulations governing that spectrum -- including regulations that require VPC auction winners to make available spectrum to the United States Coast Guard ("USCG") -- neither MariTEL nor the FCC envisioned that MariTEL would be required to make spectrum available on a nationwide basis for what was then referred to as the Ports and Waterways Safety System ("PAWSS"). Instead, the only logical conclusion from the FCC's rules and decisions

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<sup>5/</sup> *Maritime Automatic Identification Systems, Memorandum Opinion and Order and Notice of Proposed Rulemaking*, 19 FCC Rcd 20071 (2004) (the "AIS Proceeding").

<sup>6/</sup> *Id.* at ¶ 63.

<sup>7/</sup> *See Reply Comments of MariTEL, Inc. in AIS Proceeding*, WT Docket No. 04-344, at 16-18 (filed January 31, 2005) ("MariTEL AIS Reply Comments").

was that MariTEL would be required to make available spectrum near maritime areas for USCG use.<sup>8/</sup>

Unfortunately, the NTIA proposal in preparation for WRC-07 is inconsistent with current United States spectrum policy and either presupposes or seeks to influence the outcome of the AIS Proceeding by seeking to permit the reception of AIS signals by satellite stations. This question -- the expansion of AIS to include other than marine areas -- is under active consideration by the FCC in the AIS proceeding.

MariTEL is mindful that the NTIA proposal would only directly affect the use of channel 88B (162.025 MHz) and that MariTEL has limited rights to use channel 88B in any case. Yet the NTIA proposal is objectionable nevertheless. By incorrectly representing as United States spectrum policy the notion that AIS is more than just a maritime service, NTIA virtually assures that the FCC must similarly designate channel 87B for nationwide AIS use in the AIS proceeding in derogation of MariTEL's rights. Moreover, the proposed fourth modification in the NTIA proposal ("USA/ /4 MOD") is not, as NTIA claims, editorial only. The current wording, which NTIA would change, restricts AIS to ship identification systems. The proposed wording would permit the use of both channels 87B and 88B for identification systems generally. This change would facilitate the precise modification of the FCC's rules the NTIA is advocating in the AIS Proceeding.<sup>9/</sup>

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<sup>8/</sup> Indeed, in implementing their Memorandum of Agreement ("MOA") executed pursuant to Section 80.173 of the FCC's rules, MariTEL and the USCG actively discussed how MariTEL could use channel 87B in areas distant from maritime regions.

<sup>9/</sup> The wording is further troubling because it proposes to delete the phrase "will be" to "are." The modification suggests that channel 87B may not be used for other than AIS purposes. In fact, as the FCC is aware, administrations are permitted to designate other channels for AIS operations and retain the use of channel 87B for other than AIS purposes.

The NTIA proposal is also unacceptable because of the recommended additional wording in footnote 5.226. As the FCC is aware, it has permitted VPC spectrum to be used to satisfy the communications requirements of land mobile licensees.<sup>10/</sup> This policy is sound and permits public safety entities and critical infrastructure industries to meet important communications needs. These licensees could comply with footnote 5.226 in the past because their use of VPC spectrum generally occurred distant from navigable waterways. The proposed change to footnote 5.226 will have a chilling effect on the FCC's goal of effective spectrum utilization because these land mobile licensees using VPC spectrum will not only be required to protect maritime licensees, but they will also be required to protect maritime mobile satellite operations. This obligation will be considerably more difficult to satisfy, particularly because MariTEL has demonstrated the potential negative effects on AIS operations from adjacent channel VPC stations and the Coast Guard's unwillingness to cooperate to mitigate such interference.<sup>11/</sup> The NTIA proposal, therefore, may effectively end the use of the FCC's policy of permitting use of VPC spectrum under Part 90 rules.

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<sup>10/</sup> See *County of Placer, California, Warren C. Havens and MariTEL Southern Pacific, Inc., Order*, 20 FCC Rcd 3657 (2005); *Commonwealth of Virginia, Order*, 19 FCC Rcd 15454 (2004); "Wireless Telecommunications Bureau Assignment of Authorization and Transfer of Control Applications Action," *Public Notice*, Report No. 1411 (rel. February 5, 2003) (FCC File No. 0001132016) (assignment from MariTEL to State of South Dakota).

<sup>11/</sup> See MariTEL AIS Reply Comments at 13.

### **III. Conclusion**

MariTEL, Inc. hereby submits the foregoing Comments and asks that the FCC take actions consistent with the views expressed herein.

Respectfully submitted,  
**MariTEL, Inc.**  
By:

/s/ Russell H. Fox

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